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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,666

02/20/2004

Jan Kall

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EXAMINER

ADDY, ANTHONY S

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/781,666

Applicant(s)

KALL ET AL.

Examiner

Anthony S. Addy

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the ^{request for reconsideration} proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 6, 8-15, 18 and 20-33.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


DUC M. NGUYEN
SUPERVISORY PRIMARY EXAMINER
TECHNOLOGY CENTER 2600

A..S.A

ADVISORY ACTION

Response to Arguments

Applicant's arguments filed on June 05, 2007 have been fully considered but they are not persuasive.

In response to applicant's argument that, "Molnar and Schiavone taken individually or in combination, fail to disclose or suggest at least the feature of sending of the message is controlled based on the restriction information, wherein the restriction level defines a type of message which can be received by the at least one terminating party (see page 5, third paragraph of the response)," examiner respectfully disagrees and maintains that the combination of Molnar and Schiavone meets the limitations as claimed. Examiner reiterates that Molnar teaches a method for controlling sending of messages in a communication system (see abstract and p. 2 [0023-0024]), the method comprising: defining restriction information associated with terminating parties to comprise a restriction level for sending the message to the at least one terminating party wherein the terminating parties are classified into a plurality of restrictions levels (see p. 2 [0026-0027], p. 3 [0041 & 0047-0050] [i.e. the limitation of "defining restriction information associated with terminating parties to comprise a restriction level for sending the message to the at least one terminating party wherein the terminating parties are classified into a plurality of restrictions levels" is met by the teaching of Molnar that subscriber-address based restriction for a terminating mobile can include such groups as all subscribers of an operator, or all subscribers having a specific type of subscription like being private subscribers, being employees of a (specific) company

or all being members of a family, which thus constitutes different levels of restriction]); and controlling sending of the message based on the restriction information (see p. 1 [0012-0013], p. 3 [0050] and Fig. 2; shows a preventing means 29 for preventing the transmission of a message to an unallowed address defined in record 28 (restriction information) [i.e. the preventing means reads on a controlling means configured to control sending of the message based on the restriction information]). Examiner respectfully clarifies the teachings of Schiavone are specifically incorporated to teach the claimed limitations of "**wherein the restriction level defines a type of message which can be received by the at least one terminating party,**" since Schiavone teaches a system and method for rule-based processing of electronic mail messages, wherein a restriction level defines a type of message which can be received by at least one terminating party (see p. 3 [0022 & 0025-0027] and p. 4 [0030-0032 & 0034-0035]), which in combination with the teachings of Molnar above meets the claimed limitations of "controlling sending of the message based on the restriction information, wherein the restriction level defines a type of message which can be received by the at least one terminating party."

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references are in the same field of endeavor as applicant's instant invention, both references are directed to controlling sending of messages in a communication system between an originating party and at least one terminating party and the motivation for combining was clearly stated by the examiner from the teachings of Schiavone. The motivation to classify messages using a mail type specifier defined by a message sender or recipient, and to control the type of messages allowed at a recipient device based on recipient profile data and the mail type specifier in the message as taught by Schiavone (see p. 2 [0007], p. 3 [0026-0027] and p. 7 [0067]). Furthermore it has been held that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the present application, applicant's arguments are based on considering each reference individually while the rejection is based on a combination of references, hence the rejections using the combination of Molnar, Schiavone, Allison, Ranjan, Dickinson and Moles are proper and maintained.